

REMARKS

Claim 13 was objected to because of an informality. Claim 13 has been canceled.

Claims 1, 3, 15-18 and 22-26 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting. Applicants will substantively respond to this rejection at the point in time at which claims in the present application have been indicated as allowable.

Claim 14 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The Examiner has asserted that the claimed “completing” limitation is unclear and may be subject to multiple interpretations. Applicants have deleted the “completing” limitation and replaced it with a more complete description of the process.

Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kerber in view of Kim.

Applicants have amended claim 1 to emphasize that the first, second and third materials are polished to substantially the same planar level. It is clear from Figure 1B of the Kim reference that materials 4, 5 and 6 are not in any way polished in order to obtain substantially the same planar level. On the contrary, Kim teaches the use of an etch back (col. 2, lines 41-43) with respect to deposited film layer 6. This etch back process cannot be controlled to achieve any degree of a substantially planar level, and clearly does not comprise a polishing operation as claimed. In fact, the etch back teaching in Kim clearly teaches away from the claimed polishing operation. Still further, Applicants submit that a polishing operation, as claimed, is incompatible with the photoresist film materials used by Kim to define the stripes 4 and 6.

Claims 2-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kerber in view of Kim and Wolf. Applicants respectfully traverse and assert that claims 2-8 are patentable over the art for at least the same reasons as claim 1.

Additionally, claim 2 recites that the first and third materials are a conductive material. In the context of claim 1, this means that the stripes are not only made of the same material, but that the material at issue is a conductive material, and further that these stripes of conductive material are used as the mask for subsequently etching the first layer of semiconductive material. While Wolf teaches certain applications of polysilicon as a conductive material, there does not appear to be any teaching or suggestion for the use of such material as a masking material for an etching process in the manner claimed. Again, as discussed above, Kim teaches the use of a photoresist film for the stripes 4 and 6, and there is no suggestion in Kim for use of any sort of conductive material as claimed.

Claims 9, 13-14 and 30-33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kerber. Claims 9-13 and 30-33 have been canceled.

Claim 14 has been amended to recite “polishing the stripes and spacers to substantially the same planar level; removing the spacers to form openings; and etching the first layer of conductive material through the openings to form a plurality of gate regions.” These operations are not taught by Kerber and further define over Kim for at least the reasons recited above with respect to claim 1.

Claims 10-12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kerber in view of Wolf. Claims 1-12 have been canceled.

Claims 15-17, 19, 22-25 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Kerber.

Claim 15 has been amended to include a limitation directed to “chemically mechanically polishing the first stripes, second stripes and sidewall spacers to substantially the same planar level.” Neither Kerber nor Kim teach or suggest chemically mechanically polishing the stripes and spacers to substantially the same planar level. As discussed above, Kim instead teaches etching back of similar structures, and this etch back is shown to be incapable of producing substantially the same planar level with respect to those structures.

Claim 22 has been amended to recite that “the plurality of first and second stripes have a polished upper surface at substantially the same planar level.” As discussed above with respect to claim 1, there is no teaching or suggestion for such a structure in either Kerber or Kim.

Claims 18, 20-21, 26 and 28-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Kerber and Wolf. Applicants respectfully traverse and assert that these dependent claims are patentable over the art for at least the same reasons as recited with respect to their respective independent claims.

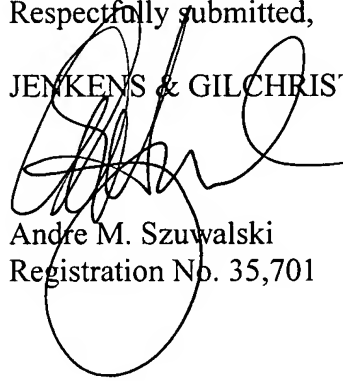
CUSTOMER NO. 23932

PATENT APPLICATION
Docket No. 61181-10USPX

In view of the foregoing, it is believed that this application is in condition for allowance.

Respectfully submitted,

JENKENS & GILCHRIST, P.C.

A handwritten signature in black ink, appearing to read 'Andre M. Szuwalski', is written over the printed name and registration number.

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